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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/666,919 | 09/18/2003 | Janusz Błaszczyk | 130109.484 | 6477 |
| 500 | 7590 | 10/13/2006 | | |
| | | | EXAMINER | |
| SEED INTELLECTUAL PROPERTY LAW GROUP PLLC | | | CREPEAU, JONATHAN | |
| 701 FIFTH AVE | | | | |
| SUITE 6300 | | | ART UNIT | PAPER NUMBER |
| SEATTLE, WA 98104 | | | 1745 | |

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/666,919 | BLASZCZYK ET AL. |
| | Examiner | Art Unit |
| | Jonathan S. Crepeau | 1745 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 September 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.
4a) Of the above claim(s) 24-27 is/are withdrawn from consideration.

5) Claim(s) 14-23 is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12 February 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2-12-04 4-25-06.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application
6) Other: ____ .

DETAILED ACTION

Election/Restrictions

1. Claims 14-19, 22, and 23 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 20 and 21, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 24-27, directed to the invention(s) of Group III, do not require all the limitations of an allowable product claim, and have NOT been rejoined.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement between groups I and II as set forth in the Office action mailed on September 1, 2006 is hereby withdrawn**. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Specification

2. The abstract of the disclosure is objected to because it exceeds 150 words in length.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al (U.S. Pre-Grant Publication No. 2002/0022171). The reference is directed to a fuel cell system comprising a multiple jet ejector (30) having a suction inlet (35) fluidly connected to recirculated hydrogen from the fuel cell (see Fig. 2). Pressurized hydrogen enters through first and second motive inlets (63, 62) and flows through respective nozzles and diffusers (51, 41, 54, 44). Check valves (57, 47) are located at the ends of the diffusers. As disclosed in [0017], the nozzles are designed for different flow regimes (e.g., high-flow and low-flow). A pressure control means (18) controls the pressure of the incoming hydrogen reactant stream.

Thus, the instant claims are anticipated.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al.

The reference is applied to claims 1-5 for the reasons stated above. However, the reference does not expressly teach that the ejector comprises an additional ultra-low-flow nozzle and diffuser as recited in claim 6, or that the system comprises a pressure regulator in combination with a solenoid valve as recited in claim 13.

However, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the addition of an “ultra-low-flow” nozzle and diffuser to the ejector of Saito et al. would represent the mere duplication of parts that is not sufficient to distinguish over the reference. Generally, a duplication of parts is not considered to be patentably distinguishable unless a new or unexpected result is shown (MPEP 2144.04). As such, the addition of a third nozzle and diffuser, i.e., an “ultra-low-flow” nozzle and diffuser, to the ejector of Saito et al. would be obvious to the skilled artisan.

In addition, regarding the pressure regulator and solenoid valve recited in claim 13, this combination of elements would be obvious to a skilled artisan as a means of controlling the pressure of the hydrogen stream. Saito et al. disclose a pressure control means but appear to be silent as to its exact structure. The use of a regulator and a solenoid valve as the control means

would be obvious since these are well-known components for achieving the desired purpose. As such, the subject matter of claim 13 would be rendered obvious.

Allowable Subject Matter

7. Claims 14-23 are allowed.
8. The following is a statement of reasons for the indication of allowable subject matter:

Claim 14 recites, among other features, first and second solenoid valves and a bypass solenoid valve. Claim 22 recites first and second pressure regulators, the second regulator fluidly connected to and interposed between the pressurized reactant supply and the second motive flow inlet. Saito et al. do not teach or fairly suggest either of these configurations.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (571) 272-1292. The phone number for the organization where this application or proceeding is assigned is (571) 272-1700. Documents may be faxed to the central fax server at (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J.C.

Jonathan Crepeau
Primary Examiner
Art Unit 1745
October 6, 2006